IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UN	NITED STATES OF AMERICA)		
	Plaintiff,) 8:05CR325)		
	vs.) DETENTION ORDER		
SA	MUEL SOTO-LOPEZ,))		
	Defendant.	,		
A.	Order For Detention After conducting a detention hearing pursuar Act on August 25, 2005, the Court orders the atto 18 U.S.C. § 3142(e) and (i).			
B.	The Court orders the defendant's detention because it finds: X By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community.			
C.	grams of methamphetam 841(a)(1) carries a minimula a maximum of forty years i distribute cocaine (Count carries a maximum senter possession of a firearm maximum sentence of ten (b) The offense is a crime of v (c) The offense involves a nar (d) The offense involves a larg (2) The weight of the evidence again X (3) The history and characteristics of (a) General Factors: The defendant apper affect whether the de The defendant has n X The defendant is not The defendant does Past conduct of the count The defendant has a	Report, and includes the following: offense charged: n with intent to distribute in excess of 50 ine (Count I) in violation of 21 U.S.C. § Im sentence of five years imprisonment and imprisonment; the possession with intent to [II] in violation of 21 U.S.C. § 841(a)(1) ince of twenty years imprisonment; and the by an illegal alien (Count IV) carries a years imprisonment In violence. In the defendant is high. If the defendant including: The defendant including: The defendant will appear. The offendant in the area. The osubstantial financial resources. The defendant including in the area. The osubstantial financial resources. The defendant including in the area. The defendant including in the area in the area. The defendant including in the area. The defendant including in the area in the area. The defendant including in the area in the area. The defendant including in the area in the area in the area. The defendant including in the area in the are		

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			The defendant has a significant prior criminal record. X The defendant has a prior record of failure to appear at court
		(b)	proceedings. At the time of the current arrest, the defendant was on:
			X Probation - Thurston County, Nebraska Parole
			Release pending trial, sentence, appeal or completion of sentence.
		(c)	Other Factors:
		()	X The defendant is an illegal alien and is subject to deportation.The defendant is a legal alien and will be subject to deportation
			if convicted. X The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.
			Other:
X	(4)		ature and seriousness of the danger posed by the defendant's release follows: The nature of the charges in the Indictment and the defendant's
		prior c	criminal history.
	<i>,</i> _,		
<u>X</u>	(5)		ttable Presumptions
			ermining that the defendant should be detained, the Court also relied on
			llowing rebuttable presumption(s) contained in 18 U.S.C. § 3142(e)
			the Court finds the defendant has not rebutted:
	<u>X</u>	_ (a)	That no condition or combination of conditions will reasonably assure
			the appearance of the defendant as required and the safety of any
			other person and the community because the Court finds that the crime
			involves:
			(1) A crime of violence; or
			(2) An offense for which the maximum penalty is life imprisonment or death; or
			X (3) A controlled substance violation which has a maximum
			penalty of 10 years or more; or
			(4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3) above, <u>and</u> the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five
			years old and which was committed while the defendant was
	Х	(h)	on pretrial release. That no condition or combination of conditions will reasonably assure
		_ (b)	the appearance of the defendant as required and the safety of the
			community because the Court finds that there is probable cause to
			believe:
			X (1) That the defendant has committed a controlled substance
			violation which has a maximum penalty of 10 years or more.
			(2) That the defendant has committed an offense under 18
			U.S.C. § 924(c) (uses or carries a firearm during and in
			relation to any crime of violence, including a crime of
			violence, which provides for an enhanced punishment if
			committed by the use of a deadly or dangerous weapon or
			device).

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- The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- That, on order of a court of the United States, or on request of an attorney for 3. the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: August 26, 2005. BY THE COURT:

> s/Thomas D. Thalken United States Magistrate Judge